G R S. App [illegible] IX-4]

194 [illegible] File No 36-4

Previous References.

([illegible]) Serial Nos 81, 85 83 + [illegible]

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos [illegible]

Part B for [illegible]

SUBJECT

[illegible]

1. Letter no MB-SRS 21/42-43 dated 26-6-43 from the Deputy Commissioner, Bangalore Rural forwarding a report regarding the election of Vice-President of the Doddaballapur Town Municipal Council and requesting in the circumstances stated to cancel the election and to order a re-election

These papers relate to the election of a Vice-President for the Doddaballapur Town Municipal Council.

The facts of the case are clearly indicated and this by Court's report. It will be seen therefrom that three candidates voted in the morning slot for the election and of these Mr S R Gurumurthy withdrew his candidature just before the election and of the remaining two Mr B S Venkatanarayana got seven votes while Mr A Campbell Ahmed Ramaiah Setty got seven votes and the former was therefore duly elected at the special meeting held for the purpose

An objection petition contesting the validity of this election has been preferred by twelve of the municipal councillors on the ground that the President was irregular in accepting the withdrawal of Mr Gurumurthy at 4.20 P M as the time for presentation of

withdrawal was up to 3 P M as fixed in the calendar of events published for the purpose. The Assistant President has explained in his report the circumstances in which he had to accept the withdrawal application at 4-20 P M & it will be seen therefrom that up to 4-30 P M on the day of election, the required number of municipal councillors to form the quorum had not turned up and the members that were present received including those that have preferred the objection, requested him to wait for a few minutes

The D.C Bangalore first before whom the objection petition was filed has called for a detailed report from the Assistant President and on this report he has recommended that the election in question may be cancelled, as to the action of the President in having accepted the withdrawal application after the time fixed for the purpose as irregular.

Under rule 60 of the rules regulating the election of President Vice-President & any candidate for the office of the Vice President may withdraw his candidature by notice in writing before the poll has commenced

Under rule 13 of the said election rules, on receipt of an objection petition

Election of Vice-President of the Bobbabella Town Municipal Council

an enquiry into the validity of such objection or objections must be held by the Dy Comm^r & other officers appointed by him for the purpose and upon the conclusion of the enquiry the D C shall report the proceedings together with his opinion to Govt. But in this case the D^t C does not appear to have held an enquiry as provided in the said rule and he has submitted his report to Govt on receiving a detailed report from the Municipal President.

Under rule 16 of the said election rules Govt may, on enquiry, either direct a re-election to be held or condone the irregularity and declare the result of the election already held.

The Law Section may perhaps be requested to furnish their views as to whether the irregularity committed in this case is such as to cancel the election already held.

Submitted for orders.

9/7/43 The election for the vice-president of the Bobbabella Town Municipal Council has been held.

8/7

No objection petition has been filed within the time prescribed under the rules, alleging certain irregularities in the conduct of the said election.

It is submitted for orders regarding the

7553

Rule 13 of the Vice Presidents & Ministers Rules - to Town Hall

election of Vice Presidents & Ministers a definite procedure is laid down in regard to the disposal of such objections petitions. It is mandatory that an enquiry should be held into the validity of the objections either by the D.C himself or an officer appointed by him for the purpose & the findings of that officer should be reported to the Govt for orders. It is seen that, in this case the prescribed procedure has not been observed and in its absence it will not be possible for the Govt to pass any orders on the material at present before them. Hence the records will be returned to the D.C who is to submit a report to Govt after an enquiry held in regard to the objections put forward and definite findings record therein & the report submit for the orders of Govt as laid down in Rule 13 of the rules regulating the election of vice-presidents & Ministers in the State for orders

12) The D.C's assessors may be directed to the rules & he may be requested to follow the procedure laid down therein

WD 1140—GPB—50 000—5-11-42

16/3 Draft placed

OFFICE OF THE MINISTER FOR L S G & P H
Date 2.7.43
No 2058

SECY LAW DEPTT 316 MYSORE

15) Submitted with a draft-letter to the Dy Comr Bangalore Rural

TYP
20 JULY 1943
GEN &

16) 17 6 43 1917

19) 19 7 43

Letter No. Bangalore Rural —
No L.9.3 d 23-7-43
Returning objections and calls for a report
Letter No H 6 S 321/42-43 dated 23-8-43 from the D C Bangalore Rural furnishing further report in the matter

17) In accordance with the instructions issued in this office letter dated 23-7-43 an enquiry has been held by the S D O Doddaballapur, as to the validity of the objections preferred in the matter. The report of the S D is flagged W

18) The S D O who held the enquiry considers that the irregularity in this election proceedings, indicated in his findings is not material to set-aside the election But the D C Bangalore Rural, disagreeing with the view of the S D O has expressed that in view of the irregularity in the election proceedings, the election now held may be cancelled and a fresh election may be ordered to be held (Kind refer to minutes & papers in file)

Election of Vice-President of the Dodda-
ballapur Town Panchayat

12 93 — Continuation Sheet — VP File No 56 Current No — of 63 — Page 15-55 / P 0433

Continuation Sheet.

VI) Submitted for orders (Refer paras 9 & 13 Supra)
Kmr 25/8/43

9) The opinion of the Law Section may be obtained on the question whether the withdrawal of one of the candidates for the election at 4 PM instead of at 3 PM as notified and the commencement of the meeting at 4 30 PM instead of at 4 PM would constitute such material irregularity as to vitiate the election already held. There is difference of opinion between the S D O (enquiring Officer) on this aspect & the D C who thinks the election held to be cancelled while the S D O considers that this may not be a material irregularity as to invalidate the election held.

10) May the Law Section be consulted?
Law Reg / Kmr 25/8/43

yes

11) Opinion of Law Cell received Kmr 25-8-43
Asst Reg (Law) Cell

12) Put up to Hon'ble Board of Revenue
3
26/8/43

Why was it delayed?
Kmr 29/10/43

Kmr 25/8/43

25) The point at issue in this case is whether the Election of the Vice President held on 26 5 43, at Dodballapur, is valid or not

26) According to the Calendar of Events the Special Meeting was to be held at 4 Pm on 26 5 43, & if any candidate wishes to withdraw his application, he had to do it in writing 3 Pm on that day

27) From the proceedings of the meeting it is seen that Polling commenced at 4 30 P.M. & one Mr Veerabhadrappa, withdrew his candidature and it was accepted at 4 20 Pm So there were only 2 candidates for election, & of them Mr Venkatnarayana got 10 votes, & Mr Ramaiah Setty got 7 votes Hence the former was declared duly elected

28) Three Municipal Councillors filed an objection petition in time, contesting the validity of the said Election Their main objection is, that when the meeting was fixed to be held at 4 Pm, the Returning Officer was wrong in receiving the withdrawal application after 4 Pm, & accepting it at 4 20 Pm, in spite of objection raised on that point, then & there

29) From the evidence on record it is established beyond doubt that at 4 Pm only about 5 persons were present The Strength of the Council is 21 So, as per Sec 27(3) of the Act, no meeting can commence unless 1/2

2 the members are present, & y that number is not secured, the Presidents can wait for 1/2 an hour, & then he can commence the meeting So the President acted quite in accordance with the Law, ~~the Commissioner waiting~~ for 1/2 an hour & then commenced the meeting

(c) The next point is, whether the Candidate's withdrawal application filed long after 3 Pm the scheduled time, but before the Polling commenced was in order or not. In this we are to be guided by the Rules framed under Sec 23(4) & the T & C Act. Rule 6(a) is to the effect that "any candidate for the office of the Vice President may withdraw his candidature by notice in writing subscribed by him & delivered to the presiding authority before the Poll has commenced" In this case, the Poll commenced at 4 30 Pm, & the application was filed at 4 20 Pm, & was also accepted by the President before the Poll commenced. Hence there was no violation of the Rules. Also this was done in accordance with Law

(d) I therefore hold that there is no such irregularity which goes to vitiate the proceedings, & as such the Election held is valid in Law

(e) The D.C admits that Sec 27(7) of the T & C Act applies to cases "where there is no Quorum" but in his later report he says that

"the adjournment shall be deemed to be only for purposes of obtaining quorum + the conduct of the elections + not for any other proceedings" viewed thus the acceptance of withdrawal at 4.20 pm cannot be considered as irregular + he goes on to say that "if a few minutes before election is held it should be made known that one of the three candidates has withdrawn his application, it must hardly be said that such a course prejudices the prospects of the remaining candidates particularly when as per calendar of events they had been definitely made known that 3 pm was the last hour for accepting the withdrawal of candidature" In other words, according to the view of the D C he lays more stress on the calendar of events, than on the Rules Further, he states that the mention of "No quorum has not appeared in the first report of the Returning Officer but it has appeared only in later reports, hence the "No Quorum theory" seems to be [illegible] cannot be relied upon

3(2) Of the 1st report of the Returning Officer dated 16.4.43 it is seen that he has stated that as per Sec 27(7) of the Act, "30 members have to form quorum for all the Municipal Councillors to appear in order to secure the full quorum" So the D C does not seem to be quite correct - in saying that the quorum question does not find a place in the 1st report of the Returning Officer It may be stated 3 pm was

fixes to pole withdrawal applications, but the candidate has got a right to act as per Rule 6(a) - The Calendar cannot override the Rule framer by accountancy rules - I therefore humbly submit that I am not prepared to open rule-book at this point also

3) The most important point to decide in this case is whether the ~~acceptance withdrawal application~~ ~~Register Roll Canvasser~~ Returning Officer has right - in attorney by accepting at 4 30 Pm if the quorum theory is believed, then he is perfectly right; & I see no reason to disbelieve it - further, on account of circumstances, it is said that the Returning President committed an irregularity, & that is why the irregularity has or has not vitiated the proceedings Now in order to decide on record, it is seen that all the voters fully well before the Poll commenced knew that one candidate has withdrawn his candidature, so they were perfectly at liberty to vote for the remaining two candidates I feel that the contention put forth in the objection statement does not hold good & that the election is valid

3
27 10 93

Asst Secy
Legal

No 4) There is nothing on record to show that the Returning-President, besides any Councillors, or that for the purpose of accepting the withdrawal application he deliberately convened the meeting at 4 30 Pm

Asst Secy
Legal

3
27/10/93

given to me in person by the Asst Secy Law section
29/10/93

Election of a President for the Doddaballapura Town

Continuation Sheet | File No / Current No 12/56 | of 4 | Page

37) The above Law point is sent for perusal and orders

36) If appl. do not prefer appeal the election of Sri B B Venkatanarayana as the Vice President of the Doddaballapura Town Mcl will be put up

Law Asst for 29/10/63

with two books
29 X 43
456

37) I agree with the view taken by the D S Law section. The proceedings was adjourned from time to time by the Returning Officer and there was no question of S 27 (1) of the T M Act. The election was properly validly held on 4-30 was ended at 4 P M

38) Having regard to the express wording of Rule 6 as now framed amended that "a candidate can withdraw before the Poll commenced" The withdrawal by one of the candidates at 4.20 was quite legal & no value can be given to the

Election of the Vice President at the ... Meeting

S 2873

Continuation Sheet Mark File No / Current No 56 of 66 Page

time fixed for it in the Calendar of events, not in accordance with any provision but contrary to the provisions of R 6 (2)

The election is Valid

391

Cor
29 10 43

Noted 2 Sec

OFFICE OF T ... ST ...
FOR L S G & P H
Date 29 10 43
No 2671

The delay in this matter should have been avoided the said section should not have taken so much of time for a matter like this the notification may come

Sd
9 11 43

Cor
9 11 43

Draft letter attached
9/11/43

Approved
9/11/43

The Comptroller, Mysore Gas
No L4830 d. 10-11-43
Notifies the election of Mr B C Venkatanarayana as the Vice-President of the DB Rural Unit

By 17/2/44

WD 01809—GPB—60 000—26 1 43

Immediate
M6-1321/42-43

M 56-42-81893/1

Office of the Deputy Commissioner
Bangalore District
Dated, Bangalore, 26th June 1943

From

R P Mallappa, Esq , B A , LL B ,
Deputy Commissioner,
Bangalore District

To

C Narayanaswamy Naidu, Esq , B A , B L ,
Secretary to Government, of Mysore,
(Law Department) , Bangalore

Sir,

Subject - Election of Vice President at Dodballapur Town Municipality

I have the honour to state that the term of the elected Vice President of Dodballapur Town Municipality expires on 10-7-43 A bye-election was held on 26-5-43 to elect a Vice president for the fresh term Three candidates stood for election Of these, Mr S R Gurulingiah withdrew his candidature Out of the remaining two, Mr B C Venkatanarayana got 8 votes while Mr Alampalli A Ma Rahiman Setty got 7 votes Mr B C Venkatanarayana was therefore declared as duly elected at the special meeting held on 26-5-43

2 An objection petition signed by three Municip Councillors contesting the validity of the above election was received in this office on 29-5-43 This was entertained as per rule 12 of the Rules regulating the election o Vice Presidents in Town Municip l Councils The grounds urged therein for the cancellation of the present election are -

a) That the time for presentation of withdrawals was up to 3 P M , on 26-5-43 and that the election was fixed to be held at 4 P M on the said date The President was not regular in accepting the withdrawal of Candidature presented by Mr S R Gurulingiah at 4-20 P M (that is long after the time fixed by the Calendar of events)

b) That objections had been raised to the above irregularity at the time of meeting alone, but the Amildar - President overruled them and accepted the withdrawal which was irregular

c) That the said election is therefore invalid and may be set aside, and fresh election be held as per rules

3 A detailed report was called for from the - Amildar President of the Municipality in the matter His report is enclosed in original in the file The Amildar President admits that the Polling actually commenced at 4-30 P M and that he accepted the withdrawal application which was presented by Mr S R Gurulingiah at 4-20 P M in regard the authority for commencing the meeting at 4-30 P M and no

at 4 P M , as per calendar of events, the President relies on section 27(7) of the Town Municipalities Act of 1953 which gives discretion to the President to wait for half-an-hour for holding the meeting As regards the second point, that is belated presentation of withdrawal and its acceptance, the President quotes rule 6(a) of the above section under which empowers the presentation of withdrawal application at any time before the polling is commenced The President therefore thinks that the election has been regularly held and the -- objections raised are untenable

4 But I feel that the procedure adopted by the Nildar President is irregular Section 27(7) of the Town Municipalities Act applies only to cases where there is no quorum for holding the meeting In the present case, it has been recorded in the minute of proceedings that the meeting commenced at 4-30 P M after allowing half-an-hour's time for all the Municipal Councillors to assemble The President has also not mentioned in his reports No C C 470/42-43 dated 27-5-43 and No 111 dated 1-6-43 that there was "no quorum at 4 P M" ence the delay in commencing the meeting till 4-30 P M was irregular The mention of no quorum at 4 P M in the subsequent report dated 18-6-43 of the Nildar President is of no value as it has not been regularly recorded in the Minute of Proceedings

5 Besides there was no need to mention the time as "before 3 P M" for the presentation of withdrawals in the published calendar of events When it is once fixed the President ought to have adhered to it Rule 6(A) admits the presentation of withdrawals before polling, but in the present case the time fixed for regular polling was 4 P M But polling was taken at 4-30 P M His acceptance of the withdrawal at 4-20 P M has misled certain Municipal Councillors as the time fixed for withdrawal as per Calendar of events was only 3 P M , There is therefore an irregularity in conducting polling long after the prescribed time in spite of the fact that no mention is made in the Proceedings of the want of quorum - at 4 P M ,

6 In these circumstances I request that sanction of Government may kindly be obtained to the cancellation of the election held on 26-5-43 and to the holding of a re-election as per rule 14 of the Election Rules The connected record is herewith enclosed for favour of reference and return

I have the honour to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Bangalore District

mr/

Appendix F G —1]

SUBJECT

Section Mel
File No 56-42
Serial No 82

Diary No of letter replied to

No 1973/W/R

To

The D C Bangalore Dist-

General and Revenue Secretariat

( )

the *194*

Sir

With reference to your letter no M6-5321/42-43 dated 28-6-43 requesting in the circumstances stated sanction to cancel the election of the Vice President of the Doddaballapur Town Municipal Council and order a re-election therefor, I am directed to state that I invite your attention to rule 43 of the rules regulating the election of Vice-Presidents to Town Municipal Councils wherein it is definitely laid down

Date of issue 23/7

Signed by

List of enclosures

Copied by

Examined by

WD 04 61—GPS—60 000—24 10 41

that on receipt of an objection petition against the election held, an enquiry into the validity of such objection must be held by you or other officer appointed by you for the purpose and then you should report the proceedings, together with your opinion, to Govt. as to whether the provisions of the said rule have not been observed in this case, I am to request you to furnish your report after following the procedure indicated therein. The records accompany for reference and retransmission.

I have &c

[illegible] 1947

for Secy to Govt.
Law Dept.

GEN 12 93/5
24 AUG 1943
L S O E I CT.

56 42-83 12
42-43

Immediate &
Confidential
No M 6 5321/ 42-3

Office of the Deputy Commissioner
Bangalore District
Dated 23rd August 1943

From

R P Mallappa Esq ,,B A , LL B ,
Deputy Commissioner, Bangalore District.

To

C Narayanaswamy Naidu Esq , B A , B L ,
Secretary to the Government of Mysore,
Law Department, Bangalore

Sir,

Election of Vice President at Doddaballapur
Town Municipality

With reference to your letter No L 973/ 1 56-12-32 dated the 23rd July 1943 on the above subject, I have the honor to state that my report of Even No dated the 20th June 1943 in the matter had been made only after due enquiry of the circumstances of the case under which the election in question was held after calling for all the particulars necessary to form an opinion in the matter of the allegation made in the objection petition As the election conducted by the Amildar President on 26-5-1943 was, in the circumstances reported by me, found to be defective and irregular as per Election Rules and Section 27(7) of the Town Municipalities Act of 1933, my opinion was furnished to Government as required under Rule 13 of the Election Rules, for the cancellation of the said election However, as per directions of Government contained in your letter under reference, the Sub Division Officer, Doddaballpur was appointed to hold an enquiry under Rule 13 of the Election Rules The records of enquiry and the detailed report of the Sub Division Officer, Doddaballapur Sub Division are enclosed for favour of perusal

In the course of enquiry the Sub Division Officer has recorded the statement of the two tellers at the election, of Mr Sheik Ahmed, one of the signatories to the objection petition, and of three other Municipal Councillors It is however reported by him that the presence of Messrs Venkatramiah Setty and Munivenkatachikkanna could not be secured

The report of the Sub Division Officer deals mainly with the legality of the acceptance of the withdrawal application of Mr Gurulingiah at 4 20 P M and is of the opinion that under Rule 6(4) of the Election Rules, the action of the Amildar President may be deemed to be in order I regret I am not able to support this opinion It is true that as per rule 6(4) of The Election Rules, a candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Presiding Authority before the poll has commenced In view of this there was certainly no need to have fixed a time limit But in so far as a definite time was fixed as per approved calendar of events with a view to facilitate proper understanding of the proceedings on the part of all the members, it was irregular on the part of the Amildar President not to have stuck to the calendar and now seek refuge under Rule 6(4) What is more irregular in this case is that even if it should be admitted, for purposes of argument, that there was no quorum at 4 P M and the meeting was adjourned by half an hour under section 27(7) of the Town Municipalities Act of 1933, the adjournment should be deemed to be only for purposes of obtaining quorum and the conduct of the election and not for any other proceeding Viewed thus, the acceptance of withdrawal at 4 20 P M cannot but be considered as irregular At 3 P M three candidates had been notified for election and a triangular contest was expected If a few minutes before election is held it should be made known that one of the three candidates has withdrawn his application, it need hardly be said that such a course prejudices the prospects of the remaining candidates particularly when as per calendar of events they had been definitely made known that 3 P M was the last hour for accepting withdrawal of candidature I am therefore of opinion, that it is an irregularity which should not be lightly disposed of

The other point of dispute in the election is the commencement of the poll at 4 30 P M instead of at 4 P M as per calendar of events On this matter the Sub Division Officer is of the opinion that it appears from his enquiry that there

as no quorum at 4 P M and that as under section 27(7) of the Town Municipalities Act of 1933, the President has powers to adjourn the meeting for half an hour, the action of the President in his case may be considered as regular although he agrees that the resolution in this matter is very loosely worded which is mainly due to the inexperience of the Amildar President for whom the election in question is the first experience of its kind Even in this matter, I am not able to agree with the opinion of the Sub Division Officer Section 27(7) of the Town Municipalities Act applies only to cases where there is no quorum for holding the meeting In the present case it has been recorded in the minutes of the proceedings that the meeting commenced at 4 30 P M after allowing half an hour's time for all the Municipal Councillors to attend The proceedings never indicate that there was no quorum at 4 P M and the absence of quorum has not been referred to by the Amildar in his first report of the election proceedings The mention of 'no quorum' at 4 P M in the subsequent report dated 18-3-43 of the Amildar President is of no value when any mention of it is so conspicuously absent both in the proceedings in the first report of the Amildar which are the most important documents in the case The Sub Division Officer himself admits that it is ascertained from his enquiry that the meeting was not commenced at 4 P M partly because the candidates themselves including Mr Atma Ramiah Setty appear to have told the Amildar that the presence of all the Municipal Councillors may be secured for the election This is a very strong circumstance which goes to disprove the theory of 'no quorum' put up in later reports Even if this request of the candidates is believed to be true, it was improper that in an important matter like the one in question, the Amildar President should have allowed himself to influenced by the candidates instead of adopting the course open to him as per rules I therefore reiterate once again in my opinion that the theory of 'no quorum' cannot be brought forward at this late of time to cure an irregularity which appears self- evident.

In the above circumstances, I am of opinion that the election held on 26-5-1943 is irregular I therefore request that sanction of Government may kindly be obtained for its cancellation and holding a re-election as per Rule 14 of the Election Rules.

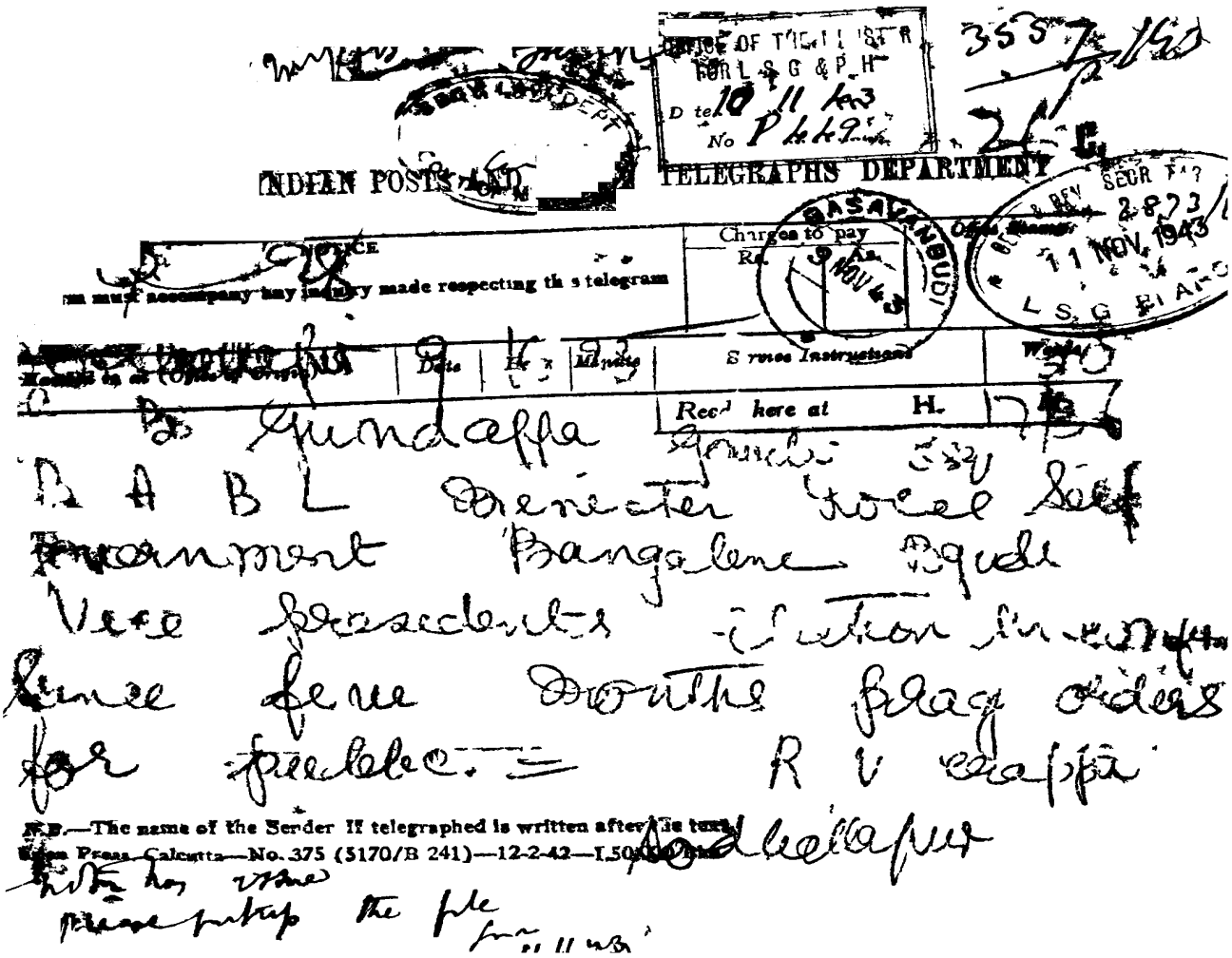
Minutes of proceedings accompany

I have the honour to be,

Sir,

Your most obedient servant

Deputy Commissioner
Bangalore District



N.B.—The name of the Sender if telegraphed is written after the text.

Government Press, Calcutta—No. 375 (5170/B 241)—12-2-42—1,50,000.

Wire by wire
please pickup the file
from M. M. M.

L 4 1/30 D 10/11/43 Mil 56-42 84 abd

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated Bangalore ——— ———

NOTIFICATION

Under Section 23 (4) and proviso to subsection (1) of the Mysore ~~Section 16 (4) of the Mysore~~ Town Municipalities Act 1933 ~~Minor Municipalities Act 1933~~ Mr B C Venkalanarayana is elected as the Vice President of the Doddaballapur Town Municipal Council ~~Minor Municipal Council~~ Bangalore District

By Order

For Secretary to Government
Law Department

To—The Compiler Mysore Gazette for publication in Part III-3 of Gazette and supply of ten copies thereof to the Secretariat and to the Deputy Commissioner of the District Concerned.

MEMO NO L 4831 Dy 10/11

Copy of the above is forwarded with compliments to the Deputy Commissioner Bangalore District for information with reference to his letter No M6 532/42 43 dated 23-8-1943 Govt-Comm the correspondence ending Order that the election in question is valid The records accompany

By Order

For Secretary to Government
Law Department

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L4830 / Ml 56-42-84 General and Revenue Secretariat

Dated Bangalore 10th Novr. 1943 193---

NOTIFICATION

Under Section 23 (4) and proviso to Sub Section (12) thereof of the Mysore Town Municipalities Act, 1933 Mr.P.C.Venkatanarayana is elected as the Vice President of the Doddaballapur Town Municipal Council, Bangalore District.

By Order,

Secretary to Government,
Law Department.

To Compiler, Mysore Gazette
for publication in Part III-3 of Gazette
and supply of ten copies thereof to the
Secretariat and to the Deputy Commissioner
of the District concerned.